
(2013) 07 MP CK 0129
In the Madhya Pradesh High Court
Case No : Writ Petition 4855 of 2008

Vivekanand Kendra

APPELLANT

Vs

State of M.P. and Another

RESPONDENT

Date of Decision : 23-07-2013

Acts Referred:

Madhya Pradesh Societies Registrikaran Adhiniyam, 1973 — Section 11

Citation : (2013) 07 MP CK 0129

Hon'ble Judges : S.K. Gangele, J

Bench : Single Bench

Advocate : K.N. Gupta, assisted by Mr. Sanjay Kumar Sharma, for the Appellant; Nidhi Patankar, Government Advocate for the State, for the Respondent

Final Decision : Allowed

Judgement

S.K. Gangele, J.—They are heard. The petitioner has filed this petition challenging the appellate order dated 03rd September, 2007 passed by Under Secretary, State of MP, Department of Commerce, Trade and Employment (Annexure P/1) affirming the order dated 23/3/2004 passed by the Registrar, Firms and Societies, Bhopal (Annexure P/2) directing the petitioner to change the name of the petitioner society as " Anand Kendra Gwalior".

2. Petitioner society was registered under the provisions of Society Registrikaran Adhiniyam, 1973 in the name of Vivekanand Kendra, Vivekanand Needam, Chandravadni Naka, Gwalior. A certificate of registration was issued to the petitioner society of the aforesaid name. Copy of the registration certificate has been filed alongwith the petition as Annexure P/4.

3. Another society named Vivekanand Rock Memorial and Vivekanand Kendra made a complaint to the Registrar, Firms and Societies to the effect that name of the petitioner society is confusing because Vivekanand Rock Memorial and Vivekanand Kendra is registered under the provisions of Tamil Nadu Societies

Registration Act, 1975 and the area of operation of the said society is whole of the country. However, one Mr. Anil Sarode and Shrimati Alpana Sarode had constituted another society in the name of Vivekanand Kendra, Vivekanand Needam, Chandravadni Naka, Gwalior and it was registered. No information was given to the Vivekanand Rock Memorial and Vivekanand Kendra and the petitioner society has been misusing the name of Vivekanand Rock Memorial and Vivekanand Kendra, hence, registration of the petitioner society be cancelled.

4. A show cause notice was issued to the petitioner society by the Registrar, Firms and Societies to change the name of the society, copy of which has been filed as Annexure P/7 alongwith the return of the respondents. In reply to the show cause notice, the petitioner society submitted that it has no connection with Vivekanand Rock Memorial and Vivekanand Kendra nor it was associated with the aforesaid society. Thereafter, the Registrar, Firms and Society vide impugned order Annexure P/2 directed the petitioner society to change the name of the society as "Anand Kendra Gwalior". Appeal filed against the order Annexure P/2 has also been dismissed vide appellate order Annexure P/1.

5. Learned Senior Advocate appearing on behalf of the petitioner society has contended that the Registrar, Firms and Societies has no power or authority to direct the petitioner society to change its name. He further contended that the society which made complaint did not have particular name as trade mark in accordance with the provisions of Trade Marks Act, 1999, hence, it had no power or authority to submit complaint to the Registrar to change the name of the petitioner society. He further submitted that there is no similarity between the two societies, i.e. petitioner society and Vivekanand Rock Memorial and Vivekanand Kendra.

6. On the contrary, learned Government Advocate appearing on behalf of the respondents/State submitted that the Registrar had exercised his powers u/s 11 of the Madhya Pradesh Society Registrikaran Adhiniyam, 1973 and it is in accordance with law.

7. Section 11 of the Madhya Pradesh Society Registrikaran Adhiniyam, 1973 prescribes power of Registrar to amend memorandum or regulations etc. of a society. It thus reads as:

11. Power of Registrar to amend memorandum or regulations etc. of a society.-
(1) Notwithstanding anything contained in this Act or the rules made thereunder, if the Registrar considers that an amendment of the memorandum of association or regulation or bye-laws of a society is necessary or desirable in the interest of society, he may, by an order in writing, to be served on the society in the prescribed manner, require the society to make the amendment within such time as may be specified in such order.

8. The aforesaid section gives power to Registrar to direct a society to consider amendment in the memorandum of the society or regulation. There is no dispute in regard to the aforesaid power, but the power has to be exercised reasonably in

the interest of the society.

9. In the present case, the Registrar has mentioned that name of the petitioner society is similar with the complainant society, hence, it has created confusion in the mind of public. In my opinion, the aforesaid reasoning is improper because names of the two societies, i.e. petitioner society-Vivekanand Kendra, Vivekanand Needam, Chandravadni Naka, Gwalior and the complainant society - Vivekanand Rock Memorial and Vivekanand Kendra are quite different. Petitioner society is registered at Gwalior and it has used the words "Vivekanand" and another society could not claim that it has trade mark of using the word "Vivekanand" nor the complainant society is registered under the Trade Mark Act, 1999. Hence, the complainant society could not claim that no other society can use the name " Vivekanand".

10. Swami Vivekanand was a renowned Philosopher and a Sannyasi of this Nation. His name could not be permitted to be used by certain group of persons because his name could not be restrained to be used by a particular sect of persons or even residents or citizens of a particular country. His vision was vast and he was a man of international fame. Hence, no society or group of persons can claim that they only have right to use the name of a great Sannyasi and Philosopher Swami Vivekanand.

11. Consequently, the impugned orders passed by the authorities are illegal and arbitrary.

12. The petition is allowed. Impugned appellate order dated 03/9/2007 passed by Under Secretary (Annexure P/1) and the order dated 23/3/2004 passed by the Registrar, Firms and Societies (Annexure P/2) are hereby quashed. No order as to costs.